

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JAMAL DAVIS JONES,

Petitioner,

Case No. 22-cv-1384-pp

v.

COUNTY OF MILWAUKEE,

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO PROCEED WITHOUT
PREPAYING FILING FEE (DKT. NO. 2)**

On November 11, 2022, the petitioner, who was incarcerated at the Milwaukee County Jail¹ and representing himself, filed a petition for writ of *habeas corpus* under 28 U.S.C. §2254, challenging his 2022 conviction for first-degree intentional homicide and possession of a firearm by a convicted felon. Dkt. No. 1. With his petition, the petitioner filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

There is a \$5.00 filing fee for filing a *habeas* petition. 28 U.S.C. §1914(a). The petitioner asked the court to allow him to proceed without prepaying that fee. Dkt. No. 2. Section 1915(a)(1) of Title 28 allows a court to authorize the commencement of a lawsuit without prepayment of the filing fee if the person

¹ The Wisconsin Department of Corrections inmate locator website indicates that on March 13, 2023, the petitioner was admitted to the Dodge Correctional Institution from the Milwaukee County Jail. On June 7, 2023, he was transferred to the Oneida County Jail. <https://appsdoc.wi.gov>.

“submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.” The petitioner filled out the caption on the first page of his request and answered the first two questions on the second page. Dkt. No. 2 at 1-2. But the petitioner left blank question three; the request does not indicate whether the petitioner has any assets—a bank account, retirement account, investments, real estate or other assets of value. Dkt. No. 2 at 2. Nor does it provide any other information the petitioner would like the court to consider in deciding whether to waive the \$5.00 filing fee.

On December 27, 2022, the petitioner filed his prison trust account statement. Dkt. No. 7 The account statement shows that as of December 6, 2022, the petitioner had \$0.00 in his account and that he owed \$65.62. Id.

Because the petitioner did not complete all the sections of the request form, the court cannot determine whether the plaintiff has the funds to pay the \$5.00 filing fee. The court will deny the motion without prejudice and allow the petitioner to file an amended motion. The court will include with this order a copy of this district’s request form. The petitioner should put the case number for this case—22-cv-1384—in the space provided and he should write the word “Amended” on the form above the line reading “Prisoner Request to Proceed in District Court Without Prepaying the Full Filing Fee.” The petitioner already has filed his prison trust account statement for the period between June 7, 2021 and December 4, 2022; there is no need for him to re-file it. The petitioner must, however, fill out *all* the sections of the form. If the petitioner

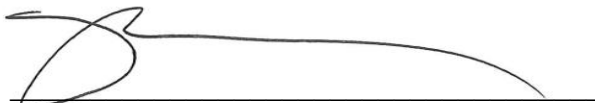
does not provide the court with the required information, the court may be unable to grant the motion and may require the petitioner to pay the full \$5.00 filing fee to avoid having his petition dismissed.

The court **DENIES WITHOUT PREJUDICE** the petitioner's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

The court **ORDERS** that by the end of the day on **June 30, 2023**, the plaintiff either must file an amended motion to proceed without prepaying the filing fee or pay the \$5.00 filing fee to the clerk of court. The plaintiff must either file the amended motion or pay the filing fee in time for the court to *receive it* by the end of the day on June 30, 2023. If, by the end of the day on June 30, 2023, the court has not received either an amended motion to proceed without prepaying the filing fee or the full \$5.00 filing fee, the court may dismiss the case for the plaintiff's failure to diligently prosecute it and for failure to follow this court's order. Civil Local Rule 41(c) (E.D. Wis.).

Dated in Milwaukee, Wisconsin this 11th day of June, 2023.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge